

Message Text

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TO AMEMBASSY ADDIS ABABA

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E.O. 11652: N/A

TAGS: ACLM, ET, US

SUBJECT: TORT CLAIM CONCERNING TRAFFIC ACCIDENT INVOLVING
DEPARTMENT EMPLOYEE

REFS: ADDIS ABABA 3169 AND 2487

1. BASED UPON THE FACTS AND CIRCUMSTANCES DESCRIBED IN THE TELEGRAMS UNDER REFERENCE REGARDING A FATAL TRAFFIC ACCIDENT INVOLVING COMMUNICATIONS TECHNICIAN CALVIN D. WILLS (OPERATOR OF AN EMBASSY VEHICLE) AND A PEDESTRIAN, THE DEPARTMENT IS NOT IN A POSITION TO AUTHORIZE EMBASSY TO NEGOTIATE OUT-OF-COURT SETTLEMENT OR TO PROCURE LEGAL SERVICES IN CONNECTION WITH THE MATTER. BEFORE A DETERMINATION CAN BE MADE REGARDING EMBASSY REQUESTS, FURTHER INFORMATION IS NECESSARY.

2. THE DISPOSITION AND/OR SETTLEMENT OF CLAIMS OF THIS
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KIND ARE GOVERNED BY THE PROVISIONS OF THE FEDERAL TORT CLAIMS ACT OF 1949, AS AMENDED. THE LEGAL ADVISER AND THE DEPUTY LEGAL ADVISERS ARE AUTHORIZED TO CONSIDER, ASCERTAIN, ADJUST, DETERMINE AND SETTLE CLAIMS CAPABLE OF ADMINISTRATIVE SETTLEMENT UNDER THE FEDERAL TORT CLAIMS ACT OF 1949 AND THE ACT OF AUGUST 1, 1956. CHIEFS

OF MISSION AND PRINCIPAL OFFICERS OF FISCAL REPORTING POSTS ARE AUTHORIZED TO CONSIDER, ASCERTAIN, ADJUST, DETERMINE AND SETTLE CLAIMS IN AN AMOUNT OF DOLS 1,000 OR LESS WHICH ARE CAPABLE OF ADMINISTRATIVE SETTLEMENT UNDER THE ACT OF AUGUST 1, 1956, ARISING OUT OF THE ACTIVITIES OF THEIR RESPECTIVE ESTABLISHMENTS.

3. FOR A CLAIM TO BE COMPENSABLE, THE TORT UPON WHICH IT IS BASED MUST BE CAUSED BY THE NEGLIGENCE OR WRONGFUL ACT OR OMISSION OF AN EMPLOYEE OF THE DEPARTMENT WHILE ACTING WITHIN THE SCOPE OF HIS OFFICE OR EMPLOYMENT, UNDER CIRCUMSTANCES WHERE THE UNITED STATES, IF A PRIVATE PERSON, WOULD BE LIABLE TO THE INJURED PARTY OR HIS REPRESENTATIVE IN ACCORDANCE WITH THE LAW OF THE PLACE WHERE THE TORT OCCURRED.

4. WHILE NOT CLEAR FROM THE REFERENCED TELEGRAMS, IT APPEARS THAT WILLS WAS NOT OPERATING THE EMBASSY VEHICLE INVOLVED IN THE ACCIDENT WHILE ACTING WITHIN THE SCOPE OF HIS OFFICE OR EMPLOYMENT. IF SUCH IS THE FACT, THE CLAIM WOULD NOT BE COMPENSABLE UNDER THE FEDERAL TORT CLAIMS ACT, AS AMENDED. IF ACTING WITHIN THE SCOPE OF OFFICE OR EMPLOYMENT, AND THERE IS NO LIABILITY, CLAIM WOULD ALSO BE INVALID.

5. IN THE EVENT VEHICLE WAS BEING OPERATED BY WILLS
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ACTING WITHIN THE SCOPE OF HIS OFFICE OR EMPLOYMENT, AND THERE IS LIABILITY UNDER THE LAW OF THE SITUS, CLAIM MAY BE COMPENSABLE AND SETTLED BY THE EMBASSY FOR AMOUNT UP TO DOLS 1,000.

6. ACCORDINGLY, PLEASE INFORM DEPARTMENT ABOUT ALL FACTS AND CIRCUMSTANCES SURROUNDING WILLS' OPERATION OF THE VEHICLE IN QUESTION AND WHETHER USG, IF A PRIVATE PERSON, WOULD BE LIABLE. ALSO, CLARIFY WHAT WAS MEANT BY STATEMENTS WILLS WAS OPERATING VEHICLE "IN AN UNOFFICIAL SELF-DRIVE CAPACITY" (REF B), AND VEHICLE WAS BEING OPERATED ,UNDER AN OFFICIALLY APPROVED EMBASSY POLICY OF SELF-DRIVE." (REF A)

7. UPON RECEIPT OF REPORT, DEPARTMENT WILL FURNISH FURTHER INSTRUCTIONS. VANCE

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